

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Danny Lee Bettcher,

Civil No. 18-2737 (DWF/DTS)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Paul Schnell, Commissioner of
Corrections,

Defendant.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge David T. Schultz dated December 18, 2018. (Doc. No. 5.) No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference.

On December 18, 2018, the same day that the Magistrate Judge issued his order, Plaintiff filed a self-styled request that the Court assign him a public defender. However, that request does not address the fact, as raised by the Magistrate Judge, that Plaintiff was given until October 31, 2018 to pay an initial partial filing fee and failed to do so. Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

ORDER

1. Magistrate Judge David T. Schultz's December 18, 2018 Report and Recommendation (Doc. No. [5]) is **ADOPTED**.

2. This action is **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute.

3. Plaintiff's Motion to Appoint Counsel (Doc. No. [4]) is **DENIED AS MOOT**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 19, 2019

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge